

# **EXHIBIT A**

**Declaration of Philip P. Mann**

**Case No. 21-CV-0817-TSZ**

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BUNGIE, INC.,

Plaintiff,

v.

AIMJUNKIES.COM; PHOENIX  
DIGITAL GROUP LLC; DAVID  
SCHAEFER; JORDAN GREEN;  
JEFFREY CONWAY; JAMES MAY,,

Defendants.

No. 2:21-cv-811-TSZ

BUNGIE, INC.'S OBJECTIONS AND  
RESPONSES TO DEFENDANT  
PHOENIX DIGITAL GROUP LLC'S  
FIRST SET OF REQUESTS FOR  
PRODUCTION

**PRELIMINARY STATEMENT**

The objections and responses set forth below are based upon such information that is presently available to Bungie. Bungie provides these objections and responses without prejudice to its right to assert additional objections and amend or supplement any or all of the information contained in its responses as additional facts are ascertained, analyses are made, and research is completed. These objections and responses are made without waiving or intending to waive, but on the contrary preserving:

a. all assertions as to competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose of the responses or subject matter thereof, in any proceeding in this action, including trial, or in any other action;

BUNGIE'S OBJ. AND RESP. TO PHOENIX  
DIGITAL'S FIRST SET OF RFPS – 1  
(No. 2:21-cv-811-TSZ)

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b. the right to object on any ground to the use of said responses, or the subject matter thereof, in any proceeding in this action, including trial, or in any other action; and

c. the right to object on any ground at any time to additional Requests, interrogatories, or other discovery procedures involving or relating to the subject matter of these Requests.

A partial answer to any Request that has been objected to, in whole or in part, is not intended to be a waiver of the objection.

In responding to the Requests, Bungie does not concede the competency, relevancy, materiality, or admissibility of the subject matter of the Request. Nothing contained in its objections and responses is to be construed as an admission by Bungie concerning:

- a. the existence of any information or document;
- b. the relevance or admissibility of any information or document; or
- c. the truth or accuracy of any information, document, statement, construction, or characterization.

Any information conveyed in conjunction with Bungie's objections and responses is not to be construed as an admission as to the competency, relevancy, materiality, or admissibility as evidence for any purpose in this action or in any other proceeding. Bungie will respond to each Request, to the extent that no objection is made, based upon its interpretation and understanding of the Request.

## GENERAL OBJECTIONS

The following objections apply to each and every Request propounded by Defendant Phoenix Digital Group LLC (“Phoenix Digital”) and are incorporated into each of the following specific responses by reference as if set forth in full in response to each individual Request. Any repetition is for emphasis only and not to the exclusion of any other General Objection.

1. Bungie objects to the Requests to the extent they call for information that is protected from disclosure by the attorney-client privilege, the attorney work product doctrine, or

1 any other privilege, protection, or immunity provided by law (“Privileged Information”). Any  
2 response should be construed to exclude Privileged Information. Inadvertent disclosure of  
3 Privileged Information shall not constitute a waiver of, nor signify intent to waive, the applicable  
4 privilege, either as to the information or documents inadvertently disclosed or as to any other  
5 information or documents. Nothing contained in Bungie’s responses or the documents produced  
6 is intended to be or should be considered a waiver by Bungie of any applicable protection.

7 2. Bungie objects to the Requests to the extent they are vague and ambiguous, use  
8 terms that are not defined or understood, seek information that is not relevant to the subject  
9 matter of this action or proportional to the needs of the case, and are unduly burdensome or  
10 oppressive.

11 3. Bungie objects to the Requests to the extent they call for legal conclusions.

12 4. Bungie objects to the Requests to the extent they are premature. Discovery is  
13 continuing in this action and Bungie has not completed its factual investigation. These responses  
14 are made in good faith and after diligent inquiry into the facts and information now known to  
15 Bungie as well as its present analysis of the case. However, documents that may be responsive  
16 to the Requests may not yet have been discovered. Accordingly, without asserting an obligation  
17 to do so, and without waiving the objections asserted herein, Bungie reserves the right to amend  
18 and/or supplement its responses as and when additional information is discovered. Additionally,  
19 because Bungie’s responses are based on information that it has identified to date, they do not  
20 preclude Bungie from relying on facts or documents discovered or generated pursuant to  
21 subsequent investigation and discovery.

22 5. Bungie objects to the Requests to the extent they seek information of a third party  
23 that is in Bungie’s possession, custody, or control but is subject to an obligation of  
24 confidentiality and/or nondisclosure to the third party. Bungie will provide such information and  
25 documents or things only to the extent it can do so consistent with the Stipulated Protective  
26 Order entered in this case (Dkt. No. 60).

1           6.       Bungie objects to the Requests to the extent they seek documents or things not  
2 within Bungie's possession, custody, or control, or not maintained by Bungie in its ordinary  
3 course of business. Bungie will provide only relevant, non-privileged documents that are  
4 presently within Bungie's possession, custody, or control and that it is able to locate after a  
5 reasonable investigation.

6           7.       Bungie objects to the Requests to the extent they seek documents or things in  
7 Phoenix Digital's possession and/or available to Phoenix Digital from public sources.

8           8.       Bungie objects to the Requests to the extent they seek documents or things more  
9 efficiently and appropriately obtained through some other form of discovery.

10          9.       Bungie objects to the Requests to the extent they seek disclosure of confidential,  
11 proprietary, and trade secret information or information that is otherwise commercially sensitive,  
12 and will only produce those documents consistent with the Stipulated Protective Order entered in  
13 this case (Dkt. No. 60).

14          10.      Bungie objects to the Requests, and their Definitions, to the extent they purport to  
15 impose any requirement or discovery obligation on Bungie greater or different than those  
16 imposed by the Federal Rules of Civil Procedure and the applicable rules and orders of this  
17 Court. Bungie will respond to the Requests in compliance with the Federal Rules of Civil  
18 Procedure and the Local Rules of this Court.

19          11.      Bungie objects to Definitions 1 and 2 of Phoenix Digital's Requests on the  
20 grounds that they are vague and ambiguous, specifically as to the term "Plaintiff" because it has  
21 been given two different definitions. For purposes of these objections and responses, Bungie  
22 interprets "Plaintiff" to refer to Bungie, Inc.

23          12.      Bungie further objects to Definition 2 of Phoenix Digital's Requests on the  
24 grounds that it is vague and ambiguous, specifically as to the meaning of the term "indirectly."  
25 For purposes of these objections and responses, Bungie interprets this definition to encompass  
26 only legal entities owned directly by Bungie.

**RESPONSES**

**REQUEST FOR PRODUCTION NO. 1:**

A true and correct copy of the source code for the “Destiny 2” work identified in Copyright Registration No. TX 8-933-655.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

Subject to and without waiving its General Objections, Bungie will produce non-privileged documents responsive to this Request that are in Bungie’s possession, custody, or control, if any, that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 2:**

A true and correct copy of the source code for the “Destiny 2: Beyond Light” work identified in Copyright Registration No. TX 8-933-658

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

Subject to and without waiving its General Objections, Bungie will produce non-privileged documents responsive to this Request that are in Bungie’s possession, custody, or control, if any, that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 3:**

To the extent not provided in response to Request No. 1 above, a true and correct copy of the source code for the “Destiny 2” audiovisual work identified in Copyright Registration No. PA 2-282-670.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

In addition to its General Objections, Bungie objects to this Request as vague and ambiguous, specifically as to the meaning of “source code” in connection with an “audiovisual work.”

1 Subject to and without waiving these objections, Bungie offers to meet and confer  
2 regarding this Request.

3  
4 **REQUEST FOR PRODUCTION NO. 4:**

5 To the extent not provided in response to Request No. 2 above, a true and correct copy of  
6 the source code for the “Destiny 2: Beyond Light” audiovisual work identified in Copyright  
7 Registration No. PA 2-280-030.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

9 In addition to its General Objections, Bungie objects to this Request as vague and  
10 ambiguous, specifically as to the meaning of “source code” in connection with an “audiovisual  
11 work.”

12 Subject to and without waiving these objections, Bungie offers to meet and confer  
13 regarding this Request.

14  
15 **REQUEST FOR PRODUCTION NO. 5:**

16 All documents that refer or relate to Phoenix Digital Group LLC.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

18 In addition to its General Objections, Bungie objects to this request for “[a]ll documents”  
19 as overly broad and unduly burdensome and is therefore not proportional to the needs of the case.  
20 Bungie further objects to this Request as seeking documents protected by the attorney-client  
21 privilege and/or attorney work product doctrine, as well as any other applicable immunity from  
22 disclosure.

23 Subject to and without waiving these objections, Bungie will produce non-privileged  
24 documents responsive to this Request that are in Bungie’s possession, custody, or control, if any,  
25 that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 6:**

All documents that refer or relate to Aimjunkies.com.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

In addition to its General Objections, Bungie objects to this request for “[a]ll documents” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request as seeking documents protected by the attorney-client privilege and/or attorney work product doctrine, as well as any other applicable immunity from disclosure.

Subject to and without waiving these objections, Bungie will produce non-privileged documents responsive to this Request that are in Bungie’s possession, custody, or control, if any, that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 7:**

All documents that refer or relate to Jeffrey Conway.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

In addition to its General Objections, Bungie objects to this request for “[a]ll documents” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request as seeking documents protected by the attorney-client privilege and/or attorney work product doctrine, as well as any other applicable immunity from disclosure.

Subject to and without waiving these objections, Bungie will produce non-privileged documents responsive to this Request that are in Bungie’s possession, custody, or control, if any, that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 8:**

All documents that refer or relate to David Schaefer.



**RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

In addition to its General Objections, Bungie objects to this request for “[a]ll documents” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request as seeking documents protected by the attorney-client privilege and/or attorney work product doctrine, as well as any other applicable immunity from disclosure.

Subject to and without waiving these objections, Bungie will produce non-privileged documents responsive to this Request that are in Bungie’s possession, custody, or control, if any, that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 9:**

All documents that refer or relate to Jordan Green.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

In addition to its General Objections, Bungie objects to this request for “[a]ll documents” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request as seeking documents protected by the attorney-client privilege and/or attorney work product doctrine, as well as any other applicable immunity from disclosure.

Subject to and without waiving these objections, Bungie will produce non-privileged documents responsive to this Request that are in Bungie’s possession, custody, or control, if any, that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 10:**

All documents that refer or relate to James May.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

In addition to its General Objections, Bungie objects to this request for “[a]ll documents” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request as seeking documents protected by the attorney-client privilege and/or attorney work product doctrine, as well as any other applicable immunity from disclosure.

Subject to and without waiving these objections, Bungie will produce non-privileged documents responsive to this Request that are in Bungie’s possession, custody, or control, if any, that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 11:**

All documents that you contend show misuse or infringement by Phoenix Digital Group LLC of any Trademark referenced in your Amended Complaint.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

In addition to its General Objections, Bungie objects to this Request as vague and ambiguous, specifically as to the meaning of “misuse.” For purposes of responding to this Request, Bungie interprets “misuse” to mean “infringement.”

Subject to and without waiving these objections, Bungie will produce non-privileged documents responsive to this Request that are in Bungie’s possession, custody, or control, if any, that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 12:**

All records referring or relating to any of Defendants’ accounts on Steam/Bungie that refer or relate to Destiny 2.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

In addition to its General Objections, Bungie objects to this request for “[a]ll documents” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request to the extent it is vague and ambiguous, specifically as to the meaning of “accounts on Steam/Bungie.” Bungie also objects to this Request to the extent it seeks documents or things not within Bungie’s possession, custody, or control.

Subject to and without waiving these objections, Bungie will produce non-privileged documents responsive to this Request that are in Bungie’s possession, custody, or control, if any, that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 13:**

Any and all information collected by Bungie regarding all players computer operating environments, including but not limited to logs of running processes, Windows kernel level information, game memory, browser history and records relating to running processes.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

In addition to its General Objections, Bungie objects to this request for “[a]ny and all information” collected by Bungie regarding “all players” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request as seeking documents neither relevant to the claim or defense of any party nor reasonably proportional to the needs of the case. “Any and all information” collected by Bungie regarding “all players,” regardless of their involvement in the issues in this case, is not relevant to this case. Bungie also objects to this Request as seeking proprietary, high-security information, and irrelevant information that Bungie reasonably believes could be used in furtherance of unlawful conduct.

Subject to and without waiving these objections, Bungie intends to withhold documents based on each of these objections.

**REQUEST FOR PRODUCTION NO. 14:**

All communications including emails, phone calls, Discord or any other method of electronic communication including communications from internal company data engineers specifically hired in July 2021 specializing in anticheating methods.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

In addition to its General Objections, Bungie objects to this request for “[a]ll communications” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request as seeking documents neither relevant to the claim or defense of any party nor reasonably proportional to the needs of the case. “All communications” from “internal company data engineers specifically hired in July 2021 specializing in anticheating methods” unspecified in subject matter or time period are not relevant to this case. Bungie further objects to this Request as vague and ambiguous to the extent it requests the production of “phone calls.” Bungie also objects to this Request to the extent that disclosure of responsive documents exposes Bungie employees to risk of physical harm from third parties.

Subject to and without waiving these objections, Bungie intends to withhold documents based on each of these objections.

**REQUEST FOR PRODUCTION NO. 15:**

All information in your possession or control collected by Steam regarding players computer operating environments, including but not limited to logs of running processes, Windows kernel level information, game memory, browser history and records relating to running processes shared with Bungie. Communications including emails, phone calls, Discord or any other method of electronic communication.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

In addition to its General Objections, Bungie objects to this request for “[a]ll information” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case.

Bungie further objects to this Request as seeking documents neither relevant to the claim or defense of any party nor reasonably proportional to the needs of the case. The “information...collected by Steam regarding players computer operating environments” is not relevant to this case. Bungie also objects to this Request as vague, ambiguous, and confusing, specifically as to the meaning of the sentence “Communications including emails, phone calls, Discord or any other method of electronic communication.” Bungie also objects to this Request as seeking proprietary, high-security information, and irrelevant information that Bungie reasonably believes could be used in furtherance of unlawful conduct.

Subject to and without waiving these objections, Bungie responds that it does not have documents responsive to this Request in its possession, custody, or control

#### **REQUEST FOR PRODUCTION NO. 16:**

All information collected by Battleye regarding players computer operating environments, including but not limited to logs of running processes, Windows kernel level information, game memory, browser history and records relating to running processes shared with Bungie.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

In addition to its General Objections, Bungie objects to this request for “[a]ll information” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request as seeking documents neither relevant to the claim or defense of any party nor reasonably proportional to the needs of the case. “All information” collected by Battleye regarding “players computer operating environments” is not relevant to this case. Bungie also objects to this Request as seeking proprietary, high-security information, and irrelevant information that Bungie reasonably believes could be used in furtherance of unlawful conduct.

1 Subject to and without waiving these objections, Bungie intends to withhold documents  
2 based on each of these objections.

3  
4 **REQUEST FOR PRODUCTION NO. 17:**

5 All communications including emails, phone calls, Discord or any other method of  
6 electronic communication.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

8 In addition to its General Objections, Bungie objects to this request for “[a]ll  
9 communications” unqualified by subject matter, time period, or person(s) as overly broad, unduly  
10 burdensome, and seeking documents neither relevant to the claim or defense of any party nor  
11 reasonably proportional to the needs of the case. Bungie further objects to this Request as vague  
12 and ambiguous to the extent it requests the production of “phone calls.” Bungie further objects to  
13 this Request as seeking documents protected by the attorney-client privilege and/or attorney work  
14 product doctrine, as well as any other applicable immunity from disclosure.

15 Subject to and without waiving these objections, Bungie intends to withhold documents  
16 based on each of these objections.

17  
18 **REQUEST FOR PRODUCTION NO. 18:**

19 All information collected by Bungie/Steam/Battleeye regarding any of David Schaefer,  
20 Jordan Green, Jeff Conway, James May or Phoenix Digital Group’s computers operating  
21 environments, including but not limited to logs of running processes, kernel level information,  
22 game memory, browser history and records relating to running processes.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

24 In addition to its General Objections, Bungie objects to this request for “[a]ll information”  
25 as overly broad and unduly burdensome and is therefore not proportional to the needs of the case.  
26 Bungie further objects to this request as vague and ambiguous as it seeks documents regarding

1 certain computers without sufficiently identifying those computers, including, for instance, by  
2 providing the IP address of the devices. Bungie further objects to this Request as seeking  
3 documents neither relevant to the claim or defense of any party nor reasonably proportional to the  
4 needs of the case. “All information,” if any, collected by Bungie, Steam, or Battleye regarding the  
5 Defendants is not relevant to this matter. Bungie also objects to this Request as seeking  
6 proprietary, high-security information, and irrelevant information that Bungie reasonably believes  
7 could be used in furtherance of unlawful conduct.

8 Subject to and without waiving these objections, Bungie intends to withhold documents  
9 based on each of these objections.

10  
11 **REQUEST FOR PRODUCTION NO. 19:**

12 All communications including emails, phone calls, Discord or any other method of  
13 electronic communication relating to any of David Schaefer, Jordan Green, Jeff Conway, James  
14 May or Phoenix Digital Group.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

16 In addition to its General Objections, Bungie objects to this request for “[a]ll  
17 communications” as overly broad and unduly burdensome and is therefore not proportional to the  
18 needs of the case. Bungie further objects to this Request as vague and ambiguous to the extent it  
19 requests the production of “phone calls.” Bungie further objects to this Request to the extent it is  
20 duplicative of Request Nos. 5–10.

21 Subject to and without waiving these objections, Bungie will produce non-privileged  
22 documents responsive to this Request that are in Bungie’s possession, custody, or control, if any,  
23 that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 20:**

Any and all records, emails or any other electronic communications, regarding Bungies claimed acquisition of Aimjunkies Destiny 2 cheat product.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

In addition to its General Objections, Bungie objects to this request for “[a]ny and all records, emails or any other electronic communications” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request to the extent it seeks documents protected by the attorney-client privilege and/or attorney work product doctrine, as well as any other applicable immunity from disclosure.

Subject to and without waiving these objections, Bungie will produce non-privileged documents responsive to this Request that are in Bungie’s possession, custody, or control, if any, that are located after a reasonably diligent search.

**REQUEST FOR PRODUCTION NO. 21:**

Any and all records of information that has been shared by Bungie or Perkins/Coie with Mitchell Silberg & Knupp LLP and/or Badgley Mullins Turner PLLC, and/or Davis Wright Tremaine LLP regarding any of David Schaefer, Jordan Green, Jeff Conway, James May or Phoenix Digital Group,

**RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

In addition to its General Objections, Bungie objects to this request for “[a]ny and all records of information” as overly broad and unduly burdensome and is therefore not proportional to the needs of the case. Bungie further objects to this Request as seeking documents neither relevant to the claim or defense of any party nor reasonably proportional to the needs of the case. Information shared by Bungie with its outside legal counsel regarding Defendants is not relevant to any issues in this case. Bungie further objects to this Request to as seeking documents protected



1 by the attorney-client privilege and/or attorney work product doctrine, as well as any other  
2 applicable immunity from disclosure.

3 Subject to and without waiving these objections, Bungie intends to withhold documents  
4 based on each of these objections.

5  
6 Dated: July 25, 2022

By: /s/ Jacob P. Dini

William C. Rava, Bar No. 29948

Jacob P. Dini, Bar No. 54115

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that they served a copy of the foregoing Bungie, Inc.'s Objections and Responses to Defendant Phoenix Digital Group LLC's First Set of Requests for Production to the following on July 25, 2022, via email at the address below:

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Dated: July 25, 2022

/s/ Jacob P. Dini  
Jacob P. Dini

CERTIFICATE OF SERVICE  
(No. 2:21-cv-811-TSZ)

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